IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.47 OF 2006

WITH

APPEAL FROM ORDER (STAMP) NO.921 OF 2006

WITH

CIVIL APPLICATION NO.48 OF 2006

Smt.Pushpavati Khushalchand Mehta ...Applicant

Versus

Shri.Onkar Maheshprasad Gupta ...Respondent

.....

Mr.A.H.Palekar i/b M/s.S.Ashwinikumar & Co.
for Applicant.
Respondent is present in-person.

.....

CORAM: A.M.KHANWILKAR, J.

MARCH 21, 2006.

P.C.

1. These Civil Applications as well as Appeal from Order are disposed of by this common order.

2. The Appeal from Order is filed against

order dated 7th December 2004. In fact, that order is passed in favour of the Applicant, granting ad-interim order in terms of prayer clauses (c) and (d). The grievance of the Applicant is that other reliefs prayed, have not been granted at ad-interim stage. Besides, it is contended that the Respondent inspite of ad-interim order, has created third party interest.

3. None of these arguments are relevant for entertaining the present Appeal. As is noted earlier, order dated 7th December 2004 is an ad-interim order passed which is confined to reliefs (c) and (d). The main Notice of Motion is still pending before the Trial Court. Other reliefs including appointment of Court Receiver will be considered while finally disposing of the said Notice of Motion. This is so, because as ad-interim relief is already granted, the question of appointment of Court Receiver does not arise.

4. The argument that Respondent has committed breach of order of injunction, cannot be the basis to entertain the present Appeal. Instead, the

Applicant will be well advised to take out appropriate remedy against the Respondent before the Trial Court.

5. These proceedings are disposed of with observation that the Trial Court may decide the main Notice of Motion expeditiously, preferably by end of May 2006. Parties shall complete pleadings in the said Notice of Motion on or before 29th March 2006 and the Notice of Motion be placed for hearing before the Trial Court on 31st March 2006, on which date, the Trial Court may proceed to finally dispose of the Notice of Motion or fix the same for hearing on another suitable date as may be advised, keeping in mind that the Motion will have to be finally disposed of by end of May 2006.

6. It is made clear that it will be open to the Applicant to take recourse against the Respondent for having committed the alleged breach of ad-interim injunction order. Those proceedings will be decided on its own merits.

7. Appeal and the Applications disposed of on

the above terms.

A.M.KHANWILKAR, J.